

IT IS ORDERED

Date Entered on Docket: December 6, 2021



The Honorable David T. Thuma
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In Re:

Warren K. Hickerson,

Debtor(s)

Ramona Hickerson,
Non-filing Spouse

Case No. 17-12739-t13

Chapter: 13

**DEFAULT ORDER TERMINATION OF AUTOMATIC STAY UPON NON-PAYMENT
FOR THE REAL PROPERTY LOCATED AT 12728 SINGING ARROW AVE. SE,
ALBUQUERQUE, NM 87123**

THIS MATTER came before the Court on the Notice Of Intent To Submit A Default Order and the Declaration of Default filed on December 2, 2021 (the "Notice") by Specialized Loan Servicing, LLC, as servicer for The Bank of New York Mellon, f/k/a The Bank of New York, successor Indenture Trustee to JPMorgan Chase Bank, N.A., as Indenture Trustee on behalf of the Noteholders of the CWHEQ Inc., CWHEQ Revolving Home Equity Loan Trust, Series 2005-M, its successors and/or assigns ("Creditor") regarding property located at 12728 Singing Arrow Ave. SE, Albuquerque, New Mexico 87123 (the "Property").

According to the Declaration of Default filed on December 2, 2021, the Debtor failed to make the mortgage payments under the terms of the Adequate Protection Order.

By submitting this Order to the Court for entry, the undersigned counsel for Creditor certifies under penalty of perjury that, on December 2, 2021, Dyane Martinez, a Legal Assistant for Elizabeth V. Friedenstien searched the data banks of the Department of Defense Manpower Data Center ("DMDC") and found that DMDC does not possess any information indicating that Warren K. Hickerson and Ramona Hickerson are currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), the automatic stay of lien enforcement is terminated as to Creditor:
 - a. To enforce their rights in the real property located at 12728 Singing Arrow Ave. SE, Albuquerque, New Mexico 87123 (the "Property"), including foreclosure of liens/Sale and proceed with eviction under the terms of any prepetition notes, mortgages, security agreements and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against Debtor(s) or the Property, or both, in any court of competent jurisdiction; and
 - b. To exercise any other right or remedy available to them under law or equity with respect to the Property.
2. Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Creditor need not name Trustee as a defendant in any state court action

it may pursue to foreclose liens against the Property and need not notify Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of Debtor(s), although Debtor(s) can be named as a defendant\defendants in litigation to obtain an *in rem* judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

4. This Order does not waive Creditor's claim against the estate for any deficiency owed by the Debtor after any foreclosure sale or other disposition of the Property. Creditor may filed an amended proof of claim this bankruptcy case within 30 days after a foreclosure sale of the Property, should it claim that Debtors owe any amount after the sale of the Property.

5. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This Order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

7. Creditor is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with Debtor(s) and to enter into a loan modification with Debtor(s).

XXX END OF ORDER XXX

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Submitted by:

/s/ Elizabeth V. Friedenstein

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